

UNITED STATES DISTRICT COURT

United States Courts
Southern District of Texas
FILED

for the

NOV 1 2012

Southern District of Texas

David J. Bradley, Clerk of Court

United States of America

v.

Dereon Tayronne KELLEY

Case No.

14 12-973 M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 18-19, 2012 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 U.S.C. Sec. 844(e)

Offense Description

through the use of an instrument of interstate commerce, namely the internet, did willfully convey false information, knowing the same to be false, in order to intimidate an individual by means of an explosive.

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

John R. McNair, FBI Task Force Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/01/2012

Judge's signature

City and state: Houston, Texas

Honorable George C. Hanks, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF
COMPLAINT AND ARREST WARRANT

I, John R. McNair, being duly sworn, hereby depose and state the following:

1. I am a criminal investigator with the Bryan Police Department in Bryan, Texas. I am assigned to the Federal Bureau of Investigation (FBI) as a Task Force Officer (TFO) on the area Joint Terrorism Task Force (JTTF) and have held this position for over 9 years. I have been a Texas-certified peace officer with the Bryan Police Department for over 27 years and hold a Masters Peace Officer's license through the Texas Commission on Law Enforcement Standards and Education (TCLEOSE). I have experience drafting and executing search and arrest warrants, using confidential human sources, and training and implementing weapons of mass destruction preparedness. As a TFO assigned to the FBI JTTF, I investigate violations of the laws of the United States, in particular those relating to terrorism, which oftentimes include national security, domestic terrorism, and criminal matters. I have experience investigating the aforementioned and have completed numerous hours of training to support the foregoing.
2. This affidavit is made in support of a Criminal Complaint alleging that **Dereon Tayronne KELLEY (KELLEY)** communicated a bomb threat to an academic institution, in violation of Title 18, United States Code, Section 844 (e).
3. I participated in this investigation and I have reviewed the reports of other federal, state, and local law enforcement personnel who also have participated. Therefore, I am familiar with the facts of this case. My statements below are limited to the facts giving rise to probable cause that **KELLEY** committed the above-named offense. My

statements are in summary form and do not comprise the totality of what I know about **KELLEY**.

4. On October 15, 2012 at 3:45pm, the Texas State University (TSU) Information Technology Assistance Center, located in San Marcos, Texas was contacted by a person identifying herself as Brittany Henderson from IP 209.166.123.177. The purpose of this contact was to try to have the password changed for Henderson's TSU email account. IP 209.166.123.177 is a known IP address located at Our Lady of the Lake University. Based on the records provided by TSU, it does not appear this person was allowed to change the password for Henderson's TSU email account. Based on Yahoo!, log-in records obtained later by Texas A&M University PD, it appears someone using the same IP, 209.166.123.177, logged into Henderson's email account brittany.henderson63@yahoo.com. This is the same Our Lady of the Lake University IP address which communicated with TSU on 10/15/12.

As of October 15, 2012, KELLEY was an enrolled student at Our Lady of the Lake University. As a student, KELLEY would have regular access to Our Lady of the Lake University computers. Our Lady of the Lake University officials were able to determine that the specific computer used to communicate with TSU was physically located on the third floor of the residence hall KELLEY lived in. KELLEY resides on the second floor of The Providence Dorm on the campus of Our Lady of the Lake University and the computer was located on the third floor of the same building. Additionally, Our Lady of the Lake University Police Department informed the FBI JTTF on 10/30/12 that KELLEY is observed on a camera inside of The Providence Dorm approximately one hour after the contact with TSU on October 15, 2012. Additionally,

the University-issued access card assigned to KELLEY was used twice on 10/15/12 to purchase meals, used at approximately 12:51am on 10/16/12 and again at approximately 11:38am on 10/17/12 to access his dorm.

On October 18, 2012, at 7:21am, an employee of TSU who works from her residence in Harris County, Texas received a threatening email on her TSU official email address. This email read "I will blow texas state up to small pieces starting with the admissions office today at three central time." This email was sent from IP address 69.78.70.138. This IP is issued by Verizon as a gateway for multiple users. This threatening email was passed to the proper authorities at TSU and resulted in the partial evacuation of the TSU campus in San Marcos, Texas on October 18, 2012.

On October 31, 2012, the FBI received results from Verizon Wireless pursuant to a Federal Grand Jury Subpoena showing that 69.78.70.138 was used at 7:20 am CDT by 979-436-8861, which had an IP address of 75.230.49.25, to contact TSU using Yahoo!. A review of the records shows this contact was to the following URL

http://m.yahoo.com/w/ygo-mail/importcontacts.bp?actN=new&srcp=compose-ice=send_ok&newconts=jc82%40txstate.edu&.tsrc=yahoo&.intl=US&.lang=en. Of significance is this URL clearly shows the email being composed and sent to a specific TSU official email address. This is the known email address for the TSU employee who received the bomb threat.

On Thursday, October 18, 2012 at 11:37 PM Central Daylight Time, the same TSU employee received the following threatening email at her residence located in Harris

County, Texas, that was sent from email address brittany.henderson63@yahoo.com , associated with IP address 69.78.70.163:

“You called the police now i will really blow it up first thing in the morning dumb bitch i am glad i am not a student anymore and you will not find me i am deleting my account”

On October 31, 2012, the FBI received results from Verizon Wireless pursuant to a Federal Grand Jury Subpoena showing that 69.78.70.163 was used at 10/18/2012 11:37 pm CDT by 979-436-8861, which had an IP address of 75.230.156.143, to contact TSU using Yahoo!. A review of the records shows this contact was to the following URL http://m.yahoo.com/w/ygo-mail/importcontacts.bp?actN=new&srcp=compose-ice=send_ok&newconts=jc82%40txstate.edu&.tsrc=yahoo&.intl=US&.lang=en. This URL also shows an email was composed and sent, via Yahoo!, to the same TSU employee as the first threatening email.

On Friday, 10/19/2012 at approximately 12:21am, the same TSU employee received the following threat from brittany.henderson63@yahoo.com sent from IP address 69.78.70.150. at her place of residence:

“I will not be arrested because they have no proof i did anything because i never brought the bomb on campus but i will tomorrow and they will not be able to find me because im at my house i hate texas state for life the police better not come back here to my house either :) my family will not tell where i am at or whose desktop im on”.

On October 31, 2012, the FBI received results from Verizon Wireless pursuant to a Federal Grand Jury Subpoena showing that 69.78.70.150 was used at 10/19/2012 12:20 am CDT by 979-436-8861, which had an IP address of 75.224.206.236, to contact TSU using Yahoo!. A review of the records shows this contact was to the following URL

http://m.yahoo.com/w/ygo-mail/importcontacts.bp?actN=new&srcp=compose-ice=send_ok&newconts=jc82%40txs tate.edu&.tsrc=yahoo&.intl=US&.lang=en.

This URL also shows an email was composed and sent, via Yahoo!, to the same TSU employee as the first threatening email.

On Friday, 10/19/2012 at 11:00 am, Texas A&M University (TAMU), College Station, Texas, received a threat via e-mail indicating an explosive device was set to be detonated within the TAMU campus. The threat e-mail specifically read, "Campus will be bombed at twelve this afternoon." The e-mail threat was received at TAMU's Computing and Information Services (CIS) department from brittany.henderson63@yahoo.com and IP address 69.78.225.221. CIS is comprised of numerous components, one of which is the TAMU help desk. TAMU University Police Department (UPD) and other TAMU officials were contacted and the decision was made to evacuate the campus. IP address 69.78.225.221 was determined to be a gateway IP belonging to Cellco Partnership dba Verizon Wireless. The threat was received at helpdesk@tamu.edu.

6. Due to the exigent circumstances of the bomb threat on 10/19/2012, UPD lawfully made an emergency request to Verizon Wireless for relevant records for IP address 69.78.225.221 shortly after the bomb threat was made. Pursuant to the emergency request, Verizon provided records to UPD regarding subscribers utilizing IP address 69.78.225.221. The IP address 69.78.225.221 is a gateway IP address used by multiple Verizon Wireless users at one time. Verizon Wireless provided a spreadsheet containing a complete list of all subscribers 69.78.225.221 on October 19, 2012, between

10:30 a.m. and 11:00 a.m. Central Daylight Time (CDT). This spread sheet contained the cellular telephone number, session connect date and time, transaction start date and time, transaction end date and time, I.P. address, data amount, and URL.

According to Verizon records, there were a total of 12 separate Verizon Wireless cellular telephone numbers that used the gateway I.P address 69.78.225.221. Each of these cellular telephones had a unique IP address. One of the Verizon subscribers using the IP address 69.78.225.221 on October 19, 2012 was cellular telephone 979-436-8861 utilizing the IP address 75.222.123.108. This cellular phone number had nine transmissions recorded by Verizon wireless. All transmissions were associated with Yahoo! Email. One of the URL's visited by 979-436-8861 was

http://m.yahoo.com/w/ygo-mail/importcontacts.bp?actN=new&srcp=compose-ice=send_ok&newconts=helpdesk%40tamu.edu&.tsrc=yahoo&.intl=US&.lang=en. The "%40" characters in this URL represents the "@" symbol typically contained in e-mail addresses. This URL is associated with helpdesk@tamu.edu. This session connection time and date was October 18, 2012 at 10:47 a.m. This transmission began and ended on October 19, 2012 at 11:00 a.m. CDT. This is the same time (11:00 CDT) that CIS received the bomb threat from the email address brittany.henderson63@yahoo.com.

On 10/24/2012 the TAMU Police Department obtained a search warrant from the 272nd District Court, Brazos County, Texas for records from Yahoo!, concerning the email address brittany.henderson63@yahoo.com. A review of the records provided by Yahoo!, in compliance with the aforementioned search warrant revealed the email

account brittany.henderson63@yahoo.com, as being accessed by IP address 69.78.225.221 on 10/19/2012 10:46:42 CDT. This is within the same time frame Verizon shows KELLEY accessed Yahoo!, on their network on his cellular phone from the same IP address.

9. During the course of the investigation, UPD was notified the Bryan Police Department (BPD) interviewed a Brittany Henderson of Bryan, Texas in relation to an incident that occurred at TSU in San Marcos, Texas. During the interview, Henderson advised e-mail account brittany.henderson63@yahoo.com belonged to her but denied involvement in any bomb threats. Henderson also advised she was involved in a current relationship with Dereon KELLEY. KELLEY reportedly had access to Henderson's Yahoo account. BPD did obtain Henderson's cellular telephone, laptop computer, and family desktop computer on consent. Subsequently, UPD obtained search warrants for each device.

10. Pursuant to the search warrant issued on 10/24/2012 by 272d District Court, Brazos County, Texas, the following text messages were recovered from the digital forensic examination of Brittney Henderson's cellular telephone conducted at the Greater Houston Regional Computer Forensic Laboratory and by investigators of the FBI JTTF in Bryan, Texas.

11. Affiant initially reviewed the text messages retrieved from Henderson's cellular phone and noted an argument between Henderson and KELLEY took place on or about 10/18/2012. Prior to the threat received at TSU, KELLEY sends a text message to Henderson indicating he was upset with Henderson and is now apologetic. The argumentative and apologetic messages from KELLEY continue in the hours following

the initial TSU threat. In addition, on 10/18/2012 at 7:33 pm, KELLEY advises Henderson via text message that he logged into her e-mail. Later that evening TSU received a second bomb threat from Henderson's e-mail address.

12. The data retrieved from the Henderson's Samsung Intensity II cellular phone has been analyzed and the following text messages are examples of the argument and how they relate in time to the conveyed threats discuss within this affidavit:

10/18/2012 07:08:29AM CDT From: Kelley To: Henderson

From: 9794368861 You know what i am trippin hard baby i got pissd off now i gotta deal with it whenever you ready to talk to me i am sorry baby ilove you

10/18/2012 1st Texas State University Bomb Threat at 07:21 a.m. CDT

10/18/2012 07:23:30AM CDT From: Kelley To: Henderson

From: 9794368861 Call when you wake up baby

Note: 10/18/2012 Bryan Police Department made contact with Brittney Henderson at approximately 10:48 a.m. in response to Texas State University Police Department's bomb threat investigation.

10/18/2012 10:58:38AM CDT From: Kelley To: Henderson

From: 9794368861 I hav beat myself up all morning for last nite please talk to me

10/18/2012 11:55:43AM CDT From: Kelley To: Henderson

From: 9794368861 Baby i was wrong give me the police officer number

10/18/2012 07:33:52PM CDT From: Kelley To: Henderson

From: 9794368861 And i logged into your email

10/18/2012 11:28:07PM CDT From: Kelley To: Henderson

From: 9794368861 Answer the phone i need to tell you something you gone hate me for it but hey

Note: 10/18/2012 Second Texas State University Bomb Threat at 11:37 p.m. CDT

10/18/2012 11:40:24PM CDT From: Kelley To: Henderson

From: 9794368861 I love you baby just tired of being hurt and dont like you giving someone else a chance like i am not here think about it

10/19/2012 12:11:58AM CDT From: Kelley To: Henderson

From: 9794368861 I love you good nite baby

10/19/2012 Third Texas State University Bomb Threat at 12:21a.m. CDT

10/19/2012 12:35:52AM CDT From: Kelley To: Henderson

From: 9794368861 Ima go ahead and leave brit i will not be hurt any longer dont all or text me for anything goodbye you ruined my love life

10/19/2012 Texas A&M University Bomb Threat at 11:00 a.m. CDT

10/19/2012 11:22:43AM CDT From: Kelley To: Henderson

From: 9794368861 I love you but you hurt me brit if you

The Affiant believes the pattern of arguments prior to each of the bomb threats is telling and shows KELLEY is in possession of his cellular phone, 979 436-8861 during the times the email bomb threats are sent.

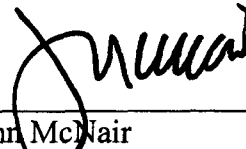
13. On 10/19/2012, BPD interviewed KELLEY where he admitted to having access to Henderson's Yahoo account.

14. On 10/25/2012 at 4:31 pm, Dereon KELLEY was interviewed by Agents of the JTTF at the Brazos County Jail in Bryan, Texas. After being read the Advice of Rights, KELLEY stated he understood his rights and was willing to talk to Interviewing Agents. KELLEY signed the Advice of Rights form which was witnessed by Interviewing Agents. During the interview, KELLEY advised the cellular phone he used to text and call Brittany Henderson on 10/18/2012 and 10/19/2012 was a black flip-phone and possibly a Samsung model. KELLEY stated his cellular number was 979-436-8861. KELLEY further stated he has access to the phone "all the time" and pays fifty dollars (\$50.00) per month for the use of the phone. In a previous interview with KELLEY on 10/23/2012 by Agents of the JTTF, KELLEY stated his phone was not capable of accessing the internet, however, agents later determined that KELLEY's phone was

capable of accessing the internet. Further, KELLEY stated in the 10/25/2012 interview that he used the cellular phone to access Brittany Henderson's Facebook account. KELLEY stated he is the only person that has access to his phone when it is in possession and does not allow anyone else to use the phone. When shown the texts provided above, KELLEY admitted to making all these text messages.

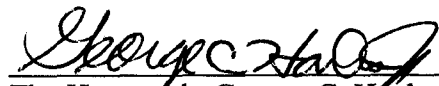
It should be noted that during an interview of conducted of KELLEY by BPD on 10/18/2012 KELLEY advised his cellular telephone number was (979)436-8861. This same information was confirmed on 10/25/2012 during an interview conducted by the JTTF.

15. For the foregoing reasons, I respectfully request that a warrant be issued for the arrest of defendant **DEREON TAYRONNE KELLEY**.



John McNair
Task Force Officer
Federal Bureau of Investigation/JTTF

SUBCRIBED and SWORN to before me on this 1st day of November, 2012, and I find that there is probable cause.



The Honorable George C. Hanks
United States Magistrate Judge